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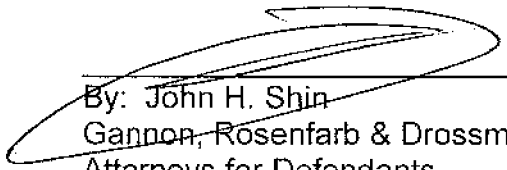
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	x	Index No.: 157504/13
AMANDA DIAZ-PASCALL and ALON	:	
PASCALL,	:	
	:	
Plaintiffs,	:	SUBMISSION OF DEPOSITION TO
	:	WITNESS PURSUANT TO CPLR
-against-	:	3116(a)
	:	
JOHN S. PEREIRA, IRGANG GROUP,	:	
INC., MARK IRGANG and JAY IRGANG,	:	
	:	
Defendants.	:	
-----	x	

Pursuant to Section 3116(a) of the Civil Practice Law and Rules, the enclosed deposition transcript of EDWIN MORALES is hereby submitted to the witness for examination and review, and any changes in form or substance which the witness desires to make shall be entered at the end of the transcript with a statement of the reasons given by the witness for making them. The enclosed errata sheet should be used for any such changes. The transcript and errata sheets, if any, shall then be signed by the witness before a notary public and then returned to Gannon, Rosenfarb & Drossman at the address below.

If the witness fails to sign and return the transcript within sixty days, it may be used as fully as though signed.

Dated: New York, New York
January 20, 2017

By:  John H. Shin
Gannon, Rosenfarb & Drossman
Attorneys for Defendants
Irgang Group, Inc., Mark Irgang and Jay Irgang
100 William Street - 7th Floor
New York, New York 10038
(212) 655-5000

TO: Law Offices of Tanya Gendelman, P.C.
Attorneys for Plaintiffs
3033 Brighton 3rd Street - 3rd Floor
Brooklyn, New York 11235

White Fleischner & Fino
Attorneys for Defendant in Action 2
Acacia, Inc. a/k/a and d/b/a Basic Housing, Inc.
61 Broadway – 18th Floor
New York, New York 10006

AFFIDAVIT OF SERVICE


Benjamin Herpel-Dobay, I the undersigned, being duly sworn, say:

I am not a party to the action, am over 18 years of age and reside in the State of New York.

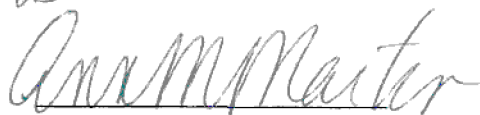
On January ²³ 2017 I served a true copy **SUBMISSION OF DEPOSITION TO WITNESS PURSUANT TO CPLR 3116(a)** upon the parties listed below, placing same in a properly addressed and stamped envelope and depositing same in a United States Post Office mail box within the State of New York addressed to:

Law Offices of Tanya Gendelman, P.C.
3033 Brighton 3rd Street - 3rd Floor
Brooklyn, New York 11235

White Fleischer & Fino
61 Broadway – 18th Floor
New York, New York 10006


Benjamin Herpel-Dobay

Sworn before me this
²³ day of January, 2017



Ann M. Martin
Notary Public, State of New York
No. 01MS892018
Qualified in Queens County
Commission Expires May 28, 2019

13-2744
JHS

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

AMANDA DIAZ-PASCALL AND ALON PASCALL,

PLAINTIFF(s),

-against-

Index No:
157504/13

JOHN S. PEREIRA, IRGANG GROUP INC.,
MARK IRGANG AND JAY IRGANG, ACACIA, INC.
a/k/a and d/b/a BASIC HOUSING, INC.,

DEFENDANT(s).

-----X

EXAMINATION BEFORE TRIAL of the
Defendant, ACACIA, INC., a/k/a and d/b/a
BASIC HOUSING, INC., BY: EDWIN MORALES, taken
by the Respective Parties, pursuant to a
Court Order, held at the offices of WHITE,
FLEISCHNER & FINO, LLP, 61 Broadway, New
York, New York, on January 13, 2017 at 10:30
a.m., before Renee M. DeCarlos, a Notary
Public of the State of New York.

Gannon, Rosenfarb & Drossman
JAN 20 2017
RECEIVED

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A P P E A R A N C E S:

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4

LAW OFFICES OF TANYA GENDELMAN, P.C.

Attorneys for the Plaintiffs

5

3033 Brighton 3rd Street

Brooklyn, New York 11235

6

BY: LAWRENCE LEWIS, ESQ.

7

File #: 03567

8

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GANNON, ROSENFARB, BALLETTI

& DROSSMAN, LLP

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Attorneys for the Defendants

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100 William Street - 7th Floor

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New York, New York 10038

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BY: JOHN SHIN, ESQ.

14

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WHITE, FLEISCHNER & FINO, LLP

Attorneys for the Defendants

16

ACACIA, INC. a/k/a and d/b/a

BASIC HOUSING, INC.

17

61 Broadway - 18th Floor

New York, New York 10006

18

BY: SHELLY WERBEL, ESQ.

19

20

ALSO PRESENT:

21

JANESSA COLLADO, ESQ.

22

xxxxxx

23

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221. UNIFORM RULES FOR THE
CONDUCT OF DEPOSITIONS

221.1 Objections at Depositions

(a) Objections in general. No objections shall be made at a deposition except those which, pursuant to subdivision (b), (c) or (d) of Rule 3115 of the Civil Practice Law and Rules, would be waived if not interposed, and except in compliance with subdivision (e) of such rule. All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

(b) Speaking objections restricted. Every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination persons in attendance shall not make statements or comments that interfere with the questioning.

221.2 Refusal to answer when objection is made. A deponent shall answer all questions at a deposition, except (i) to preserve a privilege or right of confidentiality, (ii) to enforce a limitation set forth in an order of the court, or (iii) when the question is plainly improper and would, if answered, cause significant prejudice to any person. An attorney shall not direct a deponent not to answer except as provided in CPLR Rule 3115 or this subdivision. Any refusal to answer or direction not to answer shall be accompanied by a succinct and clear statement of the basis therefor. If the deponent does not answer a question, the examining party shall have the right to complete the remainder of the deposition.

221. UNIFORM RULES FOR THE
CONDUCT OF DEPOSITIONS

221.3 Communication with the deponent

An attorney shall not interrupt the deposition for the purpose of communicating with the deponent unless all parties consent or the communication is made for the purpose of determining whether the question should not be answered on the grounds set forth in section 221.2 of these rules and, in such event, the reason for the communication shall be stated for the record succinctly and clearly.

IT IS FURTHER STIPULATED AND AGREED that the transcript may be signed before any Notary Public with the same force and effect as if signed before a clerk or a Judge of the court.

IT IS FURTHER STIPULATED AND AGREED that the examination before trial may be utilized for all purposes as provided by the CPLR.

IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the CPLR cannot be deemed waived and the appropriate sections of the CPLR shall be controlling with respect hereto.

IT IS FURTHER STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that a copy of this examination shall be furnished, without charge, to the attorneys representing the witness testifying herein.

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2 EDWIN MORALES,

3 Having been first duly sworn before a

4 Notary Public of the State of New York,

5 was examined and testified as follows:

6 EXAMINATION BY

7 MR. LEWIS:

8 Q. Please state your name for the record.

9 A. Edwin Morales.

10 Q. Please state your address for the
11 record.12 A. 22 Putnam Park Road, Bethel, Connecticut
13 06801.14 Q. Good morning, Mr. Morales. My name is
15 Lawrence Lewis. I represent the Plaintiff in
16 this matter, Ms. Amanda Diaz pass Cal I'm
17 going to question you about an accident
18 taking place on October 21, 2011 at a shelter
19 located on 125th Street.20 If you do not understand or hear me,
21 tell me. I will try and rephrase or repeat
22 it. If I ask you, wait until I'm done and
23 also all your answers have be to oral. You
24 cannot gesture, nod, anything like that. If
25 you need to take a break, tell us. If you

1 E. Morales
2 want to speak with your Counsel before you
3 answer, you certainly can do so, either
4 outside my presence or just whisper in her
5 ear.

6 MS. WERBEL: You can nod. You can
7 gesture, but a word has got to go along
8 with it because the court reporter can
9 only take down what we say, not
10 mannerisms or hand gestures.

11 Q. Sir, how long have you lived at the
12 address you gave us in Bethel?

13 A. About three years.

14 Q. Is that a house or apartment?

15 A. It's a house.

16 Q. Do you currently live there with anyone?

17 A. Yes, my wife and kids.

18 Q. What is your wife's name?

19 A. Jenny Morales.

20 Q. And before you lived at that address,
21 where did you live before that?

22 A. 86 Haven Avenue.

23 Q. What town is that?

24 A. That's in New York, New York.

25 Q. How long did you live there, about?

7

1 E. Morales

2 A. Maybe over 10 years or more.

3 Q. Okay, and did you also live there with
4 your wife and kids at that address?

5 A. Yes, yes.

6 MS. WERBEL: You have to let him
7 finish asking his question before you
8 begin an answer. Sometimes one word at
9 the end of a sentence, even though you
10 think you know what he's asking, can
11 change a whole question.

12 THE WITNESS: Okay.

13 Q. That Haven address, was that an
14 apartment or a house?

15 A. Apartment.

16 Q. Where you live now, is that an apartment
17 or a house?

18 A. It's a house.

19 Q. Do you own that house or you rent it?

20 A. We own it, yes.

21 Q. Now can I ask you your date of birth,
22 sir?

23 A. XX/XX/71.

24 MS. WERBEL: Only put the year in
25 the record, please.

8

1 E. Morales

2 Q. Can I have your Social Security number?

3 MS. WERBEL: He's here on behalf of
4 his employer. I don't know why you need
5 the Social Security number.

6 MR. LEWIS: It doesn't matter. If
7 there is a trial and I need to subpoena
8 him, I'd like the Social Security
9 number. If you want to instruct him not
10 to answer, be my guest.

11 MS. WERBEL: I don't see why you
12 need his Social Security number. You
13 have his address.

14 MR. LEWIS: I would like the Social
15 Security number, Counselor. Are you
16 going to instruct him not to answer?

17 MS. WERBEL: Last four only on the
18 record. You can give the last four.

19 A. 3332.

20 MR. LEWIS: Fair enough.

21 Q. Where do you presently work, sir?

22 A. Where I presently work?

23 Q. Yeah.

24 A. Acacia Housing Network.

25 Q. Is that the same thing as Basic Housing?

9

1 E. Morales

2 A. Yes.

3 Q. How long have you worked for them?

4 A. Eleven years.

5 Q. What is your present title with them?

6 A. Director of operations.

7 Q. As director of operations, what are your
8 duties and responsibilities?

9 A. Supervise maintenance men and
10 facilities.

11 Q. Now when you supervise maintenance men,
12 is that maintenance men your employer picks
13 or maintenance men that Irgang picks?

14 MR. SHIN: Objection to form.

15 Q. Who hires the maintenance men?

16 A. Acacia.

17 Q. And are these maintenance men employed
18 full time or part time?

19 A. Full time.

20 Q. Do you know the names of any of them?

21 A. Yes.

22 Q. Can you tell us the ones you're familiar
23 with?

24 A. Louis DeLeon, David Johnson, Louis
25 Rivera, Jason Hodge and I can't recall the

10

1 E. Morales

2 rest.

3 Q. Okay, and do you remember any of them
4 that were employed by Basic Housing as of
5 10/21/11?

6 A. No, I can't recall.

7 Q. Okay.

8 MR. LEWIS: Can you read back his
9 duties and responsibilities, what he
10 said to that?

11 (Whereupon, the record was read back
12 by the court reporter.)

13 Q. What do you mean by "supervise
14 facilities"?

15 A. We make sure all the units is up kept
16 and safe for our clients.

17 Q. Now did you have the same title,
18 responsibilities back in 10/21/11?

19 A. I might have been a housing manager
20 then.

21 MR. SHIN: What was that answer, I'm
22 sorry?

23 (Whereupon, the record was read back
24 by the court reporter.)

25 Q. If you were a housing manager, what were

11

1 E. Morales

2 your duties and responsibilities as a housing
3 manager?

4 A. Basically almost the same thing.

5 Q. Okay, and did your duties involve
6 inspecting the individual apartment units?

7 A. Yes.

8 Q. And would that be inspecting the hallway
9 and stairways?

10 A. Yes.

11 Q. And did you do that to more than one
12 facility or one, 125th?

13 MS. WERBEL: You're talking about
14 October 2011?

15 MR. LEWIS: Yes, everything is that
16 date.

17 A. Did I supervise more than that one
18 facility in 2011?

19 Q. Well, I will get to that, but as a
20 housing supervisor or your other title, did
21 you periodically inspect the building located
22 at 125th?

23 A. Yes.

24 Q. Would that include hallways and
25 stairways and other common areas?

12

1 E. Morales

2 A. Yes.

3 Q. How often would you do that, basically,
4 generally?

5 A. Maybe once a week.

6 Q. Okay, and that was regardless of whether
7 there was a complaint by a tenant about those
8 areas, correct?

9 MS. WERBEL: Objection to form.

10 Q. Would you do that regardless of whether
11 there was a complaint about the stairways or
12 hallways?

13 A. No, we just randomly pick different
14 facilities to inspect, yes.

15 Q. Now did Basic have responsibility to
16 maintain other shelters for the homeless?

17 MS. WERBEL: Objection to the form
18 of that. Why don't you just ask about
19 other buildings or premises?

20 A. Right, because you say, "shelters,"
21 there is more different shelters.

22 Q. Okay, the building 125th, was that a
23 shelter for homeless people?

24 A. Yes, it is.

25 Q. And were you involved with other

13

1 E. Morales

2 facilities that Basic Housing ran?

3 A. Yes.

4 Q. How many back then? Would you say more
5 than five, less than five?

6 A. Yeah, more than five.

7 Q. More than 25?

8 A. About, yes.

9 Q. And that included about 150 apartments,
10 individual apartments?

11 A. Yes.

12 Q. And did these all house homeless people
13 or different types of people?

14 A. Yes.

15 Q. Which?

16 A. Well, both because we have facilities
17 that occupy shelters and regular residents,
18 rent-paying people.

19 Q. Okay, and of the one at 125th, was that
20 a shelter or regular residence?

21 A. That was all shelter families.

22 Q. And the other say 25, were those mostly
23 shelter or other types of residents, if you
24 know?

25 A. It's the same. I just answered that. I

14

1 E. Morales

2 was responsible for shelter apartments. Some
3 were completely shelter and some was half
4 shelter and not shelter.

5 Q. Okay, and can you tell me out of that
6 150 apartments, approximately, how many were
7 non-shelter?

8 A. No, I can't, I'm sorry.

9 Q. More than half, less than half?

10 A. I can't.

11 Q. Okay, fair enough. And did you also
12 periodically inspect these other apartments
13 that were the shelters or regular apartment
14 complexes.

15 A. All right, when you say inspect others,
16 you mean just the shelter or the non-paying?

17 Q. I'm talking about, you said that 125th
18 was a shelter. You also said that Basic ran
19 about 25 other buildings and some were
20 shelters and some were other tenants?

21 A. Right, it was mixed. We don't run
22 facilities that are rent-paying people. We
23 have a facility of, let's just say 100 units,
24 we may have 25 units which may belong to
25 Acacia. The other 75 is just other

15

1 E. Morales

2 rent-paying people. We have nothing to do
3 with those units. All we supervise, all we
4 maintain is the 25 units that we have in that
5 facility. That's all we are responsible for,
6 the units, not the building, not nothing.

7 Q. Oh, the individual apartments?

8 A. Yes.

9 Q. And one apartment may have regular
10 tenants and also shelter tenants?

11 A. One building may have regular
12 rent-paying people and it has shelter, yes.

13 Q. Okay, let's focus in on the building we
14 are talking about, the one at 125th. Do you
15 know if they were all shelter?

16 A. They was all shelter, yes.

17 Q. And how many tenants back then lived
18 there, if you can recollect?

19 A. Tenants, there is only about eight
20 people in that facility.

21 Q. Okay, and the first floor was a store,
22 correct?

23 A. No, there is no store on the first
24 floor. That facility started at the second
25 and the third. You start from the landing to

16

1 E. Morales

2 the second floor to the third floor.

3 Q. What is on the first floor?

4 A. When you first walk into the facility
5 there's nothing. It's a lobby, a small
6 lobby.

7 Q. Okay, do you remember which floor Ms.
8 Diaz lived on?

9 A. I don't recall.

10 Q. How did you become aware of this
11 lawsuit?

12 A. Deposition.

13 Q. Is that the first time you heard of it,
14 this deposition?

15 A. Yes.

16 Q. So prior to this deposition, you don't
17 recall hearing of any accident regarding
18 Amanda Diaz-Pascal?

19 A. I don't recall.

20 Q. Do you know if there was an
21 investigation made into that accident by
22 Basic?

23 A. I don't recall.

24 Q. Is Basic also called Alcadia Basic Inc.?
25 Is that another name they use?

17

1 E. Morales

2 A. Say that again.

3 Q. Is the name Basic Housing, Inc., are
4 they also known as Alcadia Basic, Inc.?

5 MS. WERBEL: Alcadia?

6 A. Acacia. It's Acacia. It was just
7 transformed into Acacia. It was just Basic,
8 but they took over, I don't know how long,
9 and they became a entity.

10 Q. How recently was it renamed to Acacia?

11 A. I don't know.

12 Q. Within the last year or two?

13 A. No, maybe longer than that, but I can't
14 tell you what month or year.

15 Q. But not as of 10/21/11?

16 A. No.

17 Q. Now if a tenant in that building had a
18 complaint about the hallway or stairway,
19 would they have to report to a building at
20 131?

21 A. Yes.

22 Q. And was that Basic's office at the time?

23 A. Yes.

24 Q. Are they still there?

25 A. No.

18

1 E. Morales

2 Q. Where is their office these days?

3 A. I don't know where it's at. I'm no
4 longer in that site.

5 Q. Okay, do you report to their
6 headquarters nowadays?

7 A. Am I still a part of Acacia? Yes.

8 Q. Where is your office?

9 A. My personal office is at 555 Hutchinson
10 River Parkway.

11 Q. In the City?

12 A. No, it's in the Bronx.

13 Q. Okay, so they also have buildings in the
14 Bronx?

15 A. Acacia?

16 Q. Yes.

17 A. Absolutely.

18 Q. When you previously said, "25
19 buildings," would those include in the Bronx?

20 A. Yes.

21 Q. And besides the Bronx and the City, did
22 they have buildings in any other location?

23 A. Queens, Brooklyn.

24 Q. Okay, Staten Island?

25 A. No.

19

1 E. Morales

2 Q. Okay, but the four other boroughs in the
3 City?

4 A. Yes.

5 Q. Now they entered into a contract with
6 the City of New York to house the homeless
7 people at 125th, correct?

8 A. I assume so.

9 MS. WERBEL: This is only what you
10 know. I don't want you to guess.

11 THE WITNESS: That's why I said I
12 don't know.

13 A. That's above my pay rate.

14 Q. Did Irgang enter into a contract with
15 Basic to provide certain management or
16 maintenance of the 125th building?

17 A. Say that again.

18 Q. Did Basic have a written contract with
19 Irgang to provide maintenance of the 125th
20 building?

21 A. No.

22 Q. Did Basic use Irgang to do repairs of
23 hallways, stairways or other common areas?

24 A. No.

25 Q. Was there any relationship back then

20

1 E. Morales

2 with Irgang and Basic?

3 A. They have a contract. I don't know. I
4 can't say. I'm not sure.

5 Q. Who has a contract? Okay, was Irgang,
6 were they instructed by Basic back then to do
7 any needed repairs in the hallways and
8 stairways?

9 A. I don't know.

10 Q. Have you heard of Irgang?

11 A. Yeah, I have heard of Irgang.

12 Q. Do they still have a relationship with
13 Basic Housing?

14 A. We have some of his facilities, yes.

15 Q. What is the nature of the relationship?

16 A. We rent out some of his units, his
17 building for a shelter.

18 Q. For Irgang?

19 A. Yes, but any relationship, I can't tell
20 you. That's above my pay rate. I don't deal
21 when it comes to contracts and relationships.
22 I don't have anything to do with that.

23 Q. I was under the impression, you can
24 correct me if I'm wrong, if there is a
25 problem with the hallways or stairways in

21

1 E. Morales

2 that building, you would instruct Irgang to
3 take care of it, to repair it?

4 A. Anything structural, yes, we would
5 report to any landlord facility and let them
6 know that they had to do something structural
7 and they was responsible for it.

8 Q. And who would give Irgang its
9 instruction to do that?

10 A. I made the phone call, yes.

11 Q. Do you remember back then and the year
12 before if you ever called Irgang to do some
13 repairs to the building?

14 MS. WERBEL: You're talking about
15 before October 2011?

16 MR. LEWIS: Yes.

17 A. For this accident, no, I don't recall.

18 Q. What about generally?

19 A. Excuse me?

20 Q. What about generally?

21 A. Yeah, I always call.

22 Q. What kind of repairs did you instruct
23 them to do?

24 A. Whatever they're responsible to do in
25 the units.

22

1 E. Morales

2 Q. What are they responsible to do?

3 A. Air conditioning, falling ceiling,
4 anything that has to do with structural.

5 Q. Okay, and that would be in the apartment
6 and outside of it?

7 A. Yes.

8 Q. And they would hire the people to do the
9 repairs or Basic would?

10 A. Irgang has his own guys to do repairs,
11 yes.

12 Q. And did you have to approve the person
13 they used to do the repairs?

14 A. I don't approve, no.

15 Q. They're just there?

16 A. Yes, I report it to him and he sends
17 someone there that he pays to fix it.

18 Q. And did Irgang have an office in 125th
19 or 131st?

20 A. No.

21 Q. And the way this works is once there was
22 a complaint by the tenant, then someone would
23 get in touch with Irgang to take care of the
24 repair?

25 A. No, the process is if a client makes a

23

1 E. Morales

2 complaint, they go to the caseworker.

3 Caseworker then makes the complaint to the

4 maintenance department.

5 Q. At 131st?

6 A. No, that's the social service

7 department. 131st is just social services.

8 That's not the maintenance office.

9 Q. Where is the maintenance office?

10 A. It's in 819 East 178th Street.

11 Q. And when you say, "caseworker," are they

12 social workers?

13 A. We know them as caseworkers. I don't

14 know.

15 Q. So you're saying a tenant with a

16 complaint about their apartment could not

17 make the complaint directly to Basic?

18 A. To the maintenance department? When you

19 say, "Basic," you're generalizing the

20 company. It's just the department. So, no,

21 they don't directly make a complaint to us.

22 MR. SHIN: Which maintenance

23 department are you referring to?

24 THE WITNESS: To Acacia.

25 Q. Now the building itself has three

24

1 E. Morales

2 floors, you said, correct?

3 A. Two.

4 Q. Two?

5 A. Yes.

6 Q. And in order to get to the apartments
7 with the number three in that building --

8 A. I can't recall.

9 Q. There is a second, third floor with
10 apartments?

11 A. No, it's just two floors there.

12 Q. And what are the floors, first and
13 second floor?

14 A. It's second and third.

15 Q. So there is no first floor?

16 A. No.

17 Q. And how many steps do you go up to get
18 to the second floor?

19 A. I don't know. I never counted the
20 steps.

21 Q. More than ten, less than ten?

22 A. I don't know.

23 Q. And once you get to the second floor, is
24 there a landing and then another set of steps
25 to the third floor or is it a continuous set

25

1 E. Morales

2 of steps to the third floor?

3 A. It's a landing.

4 Q. And is there another set of steps that
5 take you to the third floor?

6 A. Yes.

7 Q. Is it the same number of steps that's go
8 from the second?

9 A. I don't know.

10 Q. Do you have any idea of the number of
11 steps?

12 A. No, I really don't. I don't count
13 steps, I'm sorry.

14 Q. Well, you have been there plenty of
15 times before.

16 A. I still never made that a part of my
17 job, I apologize. If we had an elevator I
18 could tell you how many floors I went up.

19 Q. Was there an elevator in the building?

20 A. No.

21 Q. Now these floors, are they the steps?
22 Do they have some tile on them or coating?

23 A. Yes.

24 Q. What type of tile or coating?

25 A. They have rubber.

26

1 E. Morales

2 Q. Okay?

3 MS. WERBEL: And you're talking
4 about in October of 2011?

5 MR. LEWIS: Yes, everything is as of
6 that day.

7 Q. And in front of the apartments
8 themselves, is there also a rubber strip?

9 A. No.

10 Q. A rubber step?

11 A. No. In front of the apartment? No.

12 Q. In front of the door?

13 A. In front of the door? No.

14 Q. Nothing?

15 A. No.

16 Q. Do you have any recollection back then
17 within, let's say, one year before whether
18 the social workers, caseworkers made
19 complaints about that building?

20 A. No.

21 Q. No recollection? If a tenant or a
22 caseworker made a complaint back then, would
23 a report be written down?

24 A. Yes, it was an e-mail sent.

25 Q. It was what?

27

1 E. Morales

2 A. An e-mail.

3 Q. An e-mail was sent to the tenant?

4 A. No, the caseworker would send the e-mail
5 to the office, yes.

6 Q. And it was not recorded in a book?

7 A. No.

8 Q. Once the repair was made, was that
9 written down or memorialized?

10 A. It was a work order, yes.

11 Q. Are those work orders for that period
12 still in existence?

13 A. No.

14 Q. So once a work order is completed, there
15 is no record kept of the work order
16 completed?

17 A. No.

18 Q. Is there any record of Basic receiving a
19 complaint about the stairway or hallways back
20 then?

21 A. No, I don't recall.

22 Q. Did they generally keep records back
23 then? Did they generally keep records of
24 complaints about the condition of a stairway
25 or hallway?

28

1 E. Morales

2 A. No, I don't recall that.

3 Q. What about problems in the apartment
4 itself?

5 A. What?

6 Q. Problems in the apartment itself?

7 A. Problems?

8 Q. Yes, was there records kept of that back
9 then?

10 A. They do inspections, but I don't know
11 what the caseworkers do with that when they
12 do inspections.

13 Q. Well, when you inspected this building
14 the year prior to 10/21/11, did you know of
15 any defective conditions?

16 A. Not that I recall, no.

17 Q. Do you recall any problems with the
18 hallway or stairways?

19 A. No, I don't recall.

20 Q. Do you recall any of the rubber tiles
21 lifting up?

22 A. I don't recall.

23 Q. Are you familiar with a tenant in that
24 building at that time by the name of Ronetta
25 Cooper on the third floor of the building?

29

1 E. Morales

2 A. No.

3 Q. Did she, to your recollection, ever go
4 to the building at 131st to report a problem
5 with the hallway or stairways?

6 A. No.

7 Q. Now if a tenant wanted to report a
8 problem with the interior of her apartment or
9 his apartment, who would they go to to report
10 it?

11 A. To the office on 131st.

12 Q. And the same thing if they saw a problem
13 with the rubber flooring on the stairways or
14 hallways?

15 A. Yes.

16 Q. Did you ever see any of those rubber
17 tiles lifting up --

18 A. No.

19 Q. -- during your inspections?

20 A. No.

21 Q. Do you remember a Spanish woman living
22 in the building at that time?

23 A. That's a general question.

24 Q. Yeah, I'm asking a general question.

25 A. I don't know how to answer that because

30

1 E. Morales

2 I don't recall.

3 MS. WERBEL: Do you have a better
4 description than a Spanish woman?

5 Q. That lived on the third floor.

6 A. No, I don't recall.

7 Q. Do you know which floor Ms. Diaz lived
8 on?

9 A. I don't know Ms. Diaz, I'm sorry.

10 Q. Did you ever step on one of these rubber
11 tiles to push it down into place?

12 A. I don't understand the question.

13 Q. Well, did you put your foot on any of
14 these rubber tiles that lifted up to put it
15 back in place?

16 MS. WERBEL: He already testified he
17 never saw a rubber tile lifted up.

18 Q. Are you aware of any accidents involving
19 the hallway or the stairway in that building
20 prior to the day we are talking about?

21 A. I don't recall, no.

22 Q. You don't recall whether there were any?

23 A. No, I don't.

24 Q. Is Irgang Group still working with
25 basic?

31

1 E. Morales

2 A. Yes.

3 Q. And does Irgang do the repairs to the
4 hallways and stairways, generally?

5 MS. WERBEL: To which building?

6 MR. LEWIS: To 125.

7 MR. SHIN: Objection to the form.

8 A. Is he responsible for the facility?

9 Q. No, I'll try again. Irgang.

10 A. Yes.

11 Q. Did they only do repairs involving the
12 hallways?

13 A. Yes.

14 MR. SHIN: Objection.

15 Q. And stairways?

16 MS. WERBEL: He already testified
17 they also do repairs if there was an air
18 conditioner involved or a ceiling came
19 down. He did testify to that.

20 MR. LEWIS: That Irgang did that?

21 MS. WERBEL: Yes.

22 A. Yes.

23 Q. So Irgang did repairs in and outside the
24 apartment?

25 A. Yes.

32

1 E. Morales

2 Q. And Basic also did repairs, correct?

3 A. Yes.

4 Q. Inside and outside the apartment?

5 A. Yes, inside the apartment, we repair
6 inside units.

7 Q. So what was the need for Irgang to go
8 inside the units?

9 A. Anything structural, anything structural
10 they're responsible for, anything like the
11 air conditioners, anything like a major
12 ceiling leak, the ceiling fell down. Acacia
13 is not responsible for that. We just do
14 basic maintenance. Anything that has to do
15 more than that, the landlord is responsible,
16 not just Irgang.

17 Q. And hallways and stairways, would that
18 be primarily the responsibility of Irgang or
19 Basic to repair?

20 MR. SHIN: Objection to form.

21 A. Irgang.

22 Q. Now once Irgang made a repair, would you
23 stop by to inspect to make sure it was done
24 properly?

25 A. Yes.

33

1 E. Morales

2 Q. And did you ever tell Irgang they forgot
3 something or it wasn't done right?

4 A. I can't recall, no.

5 Q. Now this building was owned by an LLC
6 that eventually went bankrupt; is that
7 correct?

8 A. I don't know.

9 Q. These other 25 buildings you talked
10 about, were they also owned by LLCs?

11 A. I don't know.

12 Q. Was Basic paid a nightly fee for shelter
13 tenants that were put in that building?

14 A. I don't know.

15 Q. If I told you \$57 a night, would that
16 refresh your memory?

17 A. I don't know. That's not my department.
18 I'm a maintenance man. I'm not accounting.

19 Q. Do you know what Irgang was paid to do
20 repairs?

21 A. I don't know.

22 Q. Did they charge by the hour?

23 A. I don't know.

24 MR. SHIN: Just note my objection.

25 A. I don't know.

34

1 E. Morales

2 Q. Were they on a yearly retainer in that
3 building to do repairs?

4 A. I don't know. I just report to them.
5 That's it.

6 Q. What do you report to them about?

7 A. If there is any major issues, that's it.

8 Q. Do you remember a year before this
9 accident whether there were any major issues
10 you reported to them?

11 A. I can't recall.

12 Q. Did you report some even though you
13 don't recall?

14 A. I don't recall.

15 Q. Was there a contract between Irgang and
16 Basic for repairs in that building?

17 A. I don't know.

18 MR. LEWIS: Note my objection.

19 Q. Did Irgang or Basic ever agree to make
20 repairs on the hallways or stairways to that
21 building?

22 A. Say that again.

23 Q. Did Irgang or Basic ever agree to make
24 repairs on the hallways or stairways of that
25 building?

35

1 E. Morales

2 A. I wouldn't know that.

3 MS. WERBEL: Objection to form.

4 MR. LEWIS: Can I have these marked.

5 (Photographs marked Plaintiff's
6 Exhibits 1 through 6 for identification,
7 as of today's date.)

8 Q. I will show you what has been marked as
9 Exhibit 1. Does this depict accurately and
10 truly depict the type of rubber flooring that
11 was on the hallway and the stairways back on
12 that date in the building?

13 A. Does this, the mat that's on there?

14 Q. Was that the type, you testified there
15 was a rubber mat?

16 A. Yes, but this one looks like somebody
17 lift something.

18 Q. It looks like what?

19 A. It looks like someone lifted this and I
20 don't want to say this is the way it was
21 because I can't recall.

22 Q. You never saw one of these rubber tiles
23 lifted?

24 A. No.

25 Q. You don't remember or --

36

1 E. Morales

2 MR. SHIN: Objection.

3 A. No, I don't recall no rubber tiles
4 lifted. I know there is the tile, there's
5 the rubber, but not lifted.

6 Q. Do you remember when --

7 MS. WERBEL: You're interrupting his
8 answer.

9 MR. LEWIS: No, I'm not.

10 MS. WERBEL: Did you want to add
11 something further?

12 THE WITNESS: No.

13 Q. Did you ever notice one of those tiles
14 lifted during your inspections in the one
15 year prior to 10/21/11?

16 A. In that facility?

17 Q. In 125.

18 A. No.

19 Q. Never saw one lifted?

20 A. No.

21 Q. So that looks like the rubber tiles
22 except you never saw one lifted; would that
23 be correct?

24 A. Yes.

25 Q. And was a rubber tile in front of

37

1 E. Morales

2 apartment doors on the second or third floors
3 of the building?

4 MR. SHIN: Note my objection.

5 A. No, there is no rubber tiles in front of
6 the doors.

7 Q. Is there anything in front of the doors
8 that you have to step on or over to enter?

9 A. A floor. A floor you have to step on.

10 Q. Was any of these tiles set back a
11 distance from the door of an apartment?

12 A. No, I don't recall. I don't recall
13 that.

14 Q. Well, was laid down in the hallway,
15 correct?

16 A. Yes.

17 MS. WERBEL: The rubber tiles in the
18 hallway?

19 A. It's on the stair landings. It's on the
20 landings, not in the hallways, the landing.

21 Q. But it's also on the steps, correct?

22 A. Yes.

23 Q. And the landing?

24 A. Yes.

25 Q. And the landing, in order to go into the

38

1 E. Morales

2 apartments on the second floor, you'd step on
3 the landing and then go forward or back
4 depending on where the apartment is, correct?

5 A. You step on the floor, another floor,
6 yes.

7 Q. Right, but are these rubber tiles on the
8 landing between the second and third floor?

9 A. Yes.

10 Q. And in order to go into the apartment on
11 the second or third floor, you'd step over
12 these rubber tiles, correct? You go on the
13 landing which had rubber tiles, correct?

14 A. Yes.

15 Q. And from that landing you could enter
16 into one of the apartments, correct?

17 MS. WERBEL: Are you asking can you
18 enter the apartments directly from the
19 landing or does the landing lead to a
20 hallway that might have a different
21 doors.

22 Q. Can you enter the apartment directly
23 from the landing?

24 A. No.

25 Q. How would you enter the apartment?

39

1 E. Morales

2 A. You would walk into the hallway. It's a
3 hallway.

4 Q. From the landing?

5 A. You step into a hallway, yes.

6 Q. And that hallway, does that have these
7 rubber tiles?

8 A. No.

9 Q. Just a wood floor?

10 A. No, it's ceramic tiles.

11 Q. Did you ever notice any problems with
12 those ceramic tiles in the hallway within the
13 year prior to this date?

14 A. No.

15 Q. Now Exhibit 2 also has rubber tiles.
16 Can you tell me if it shows anything else in
17 that photo?

18 A. The one that looks like somebody pulled
19 back, you're saying?

20 Q. No, I said number two. Look at the
21 numbers.

22 A. The numbers?

23 Q. It says, "Exhibit 2"?

24 A. Yes.

25 Q. It has the rubber tiles. Does it have

40

1 E. Morales

2 anything else you recognize in that photo?

3 MS. WERBEL: Do you know what is
4 depicted in that photo?

5 A. Someone standing there.

6 MS. WERBEL: He is pointing off to
7 the right side of the photograph.

8 A. Somebody standing there.

9 Q. Are you asking or you see someone?

10 A. It looks like someone is standing there.

11 Q. And, again, there rubber tiles lifted;
12 do you see it?

13 A. Yes.

14 Q. You never saw it lifted like it is in
15 number two, correct?

16 A. No.

17 Q. And to the left as you look at this
18 photo, do you know what that is?

19 A. That's a step.

20 MS. WERBEL: Well, that's to his
21 right. You're pointing to your left.
22 It's his right.

23 A. It's a step.

24 Q. And number three would be rubber tiles
25 and a step again, correct?

41

1 E. Morales

2 A. Yes, the floor landing and the step,
3 yes.

4 Q. And number four would be steps, correct?

5 A. Yes.

6 Q. And is that an apartment door; do you
7 know?

8 A. No, that's not an apartment door.

9 Q. What is it, just a wall?

10 A. That's a wall, yes.

11 Q. And you're referring to the top of the
12 photograph that's marked Plaintiff's 4?

13 MR. SHIN: With the exhibit tab
14 oriented to the right.

15 MS. WERBEL: Exhibit 4 with today's
16 date, but it was also marked Defendant's
17 A on April 27, 2016.

18 Q. Now the only stairway is between the
19 second and third floor or is there another
20 stairway on the third floor?

21 A. There is a stairway from the ground
22 floor to the second and then you would have
23 to walk in the hallway and then you would
24 have to go up another stairs.

25 Q. To get to the third floor?

42

1 E. Morales

2 A. Yes, sir.

3 Q. And are all the steps you talked about
4 from the ground floor to the third floor
5 covered with this rubber tile?

6 A. The steps have stair threads. The
7 landings have like a rubber mat, like tile
8 mat.

9 Q. That's depicted in these photos?

10 A. Yes.

11 Q. So the steps have no type of covering on
12 them at all?

13 A. Stair threads. It's rubber. That's the
14 rubber stair threads.

15 Q. Is that the same as the rubber depicted
16 in these photos?

17 A. It looks different to me. It's a
18 different kind.

19 Q. But is it rubber?

20 A. It's a rubber, yes, that's what I said.

21 Q. And does it cover the whole step?

22 A. Yes.

23 Q. And the rubber tiles depicted in these
24 photos are different than the ones that cover
25 the stairs?

43

1 E. Morales

2 A. Yes.

3 MS. WERBEL: You have photographs
4 here that have both stairs and landings.
5 Are they different colors?

6 THE WITNESS: Yes.

7 Q. So what is the color of the rubber tiles
8 that cover the steps?

9 A. I don't know.

10 Q. Well, you said they're different colors.
11 How are they different?

12 A. Because that's what I see on the
13 picture.

14 Q. What do you see that's different from
15 your observations, not from the pictures?

16 A. This is one, the stair thread is one
17 color and the stair landing is another color.

18 Q. I'm asking you what the different colors
19 are?

20 MS. WERBEL: And he was pointing to
21 Plaintiff's Exhibit 3 at the time.

22 MR. LEWIS: I'm asking from his own
23 personal knowledge, not the photographs.

24 Q. What were the two different colors of
25 the rubber tiles?

44

1 E. Morales

2 MS. WERBEL: In 2011.

3 A. I don't recall from 2011, the colors.

4 Q. Well, were they two totally different
5 colors or different shades of orange?

6 A. From 2011 and this picture, I can't tell
7 you.

8 Q. Not from this picture. From your own
9 recollection of inspection periodically?

10 A. I don't recall. That's my answer. I
11 don't recall.

12 Q. You have no recollection after all the
13 inspections?

14 A. No, sir.

15 Q. He has no recollection for a change. Do
16 you recognize what is in Exhibit 5?

17 MS. WERBEL: Marked Exhibit 5 with
18 today's date. Marked Defendant'S C on
19 April 27, 2016.

20 MR. LEWIS: Fine.

21 A. The same stair threads and the same
22 landing.

23 Q. Between what floors, sir?

24 A. I don't know.

25 Q. The five photos in front of you, could

45

1 E. Morales

2 you recognize whether any of them are between
3 the first and second or between the second
4 and third?

5 A. No, I can't.

6 Q. Let me let you look at number six. Do
7 you recognize what is in here?

8 A. That's a door.

9 Q. One of the apartment doors?

10 A. Yes.

11 Q. Do you know whether it's on the second
12 or third floor?

13 A. Looking at the picture it says 3B.

14 Q. Do you see it on the door?

15 A. Yes, it says 3B on the door.

16 Q. And do you know the tenant back then in
17 that apartment?

18 A. Was there a tenant there? I can't tell
19 you. I don't know.

20 Q. You don't know who lived there before
21 that day?

22 A. I wouldn't even know if somebody was
23 living there. I don't know.

24 Q. Now in front of this door, does it show
25 some carpeting or some type of tile in

46

1 E. Morales

2 Exhibit 6?

3 A. I can't tell from this picture, no.

4 Q. I will show you what has been marked a
5 Defendant's exhibit marked on 4/27/16. Do
6 you recognize what is in that picture?

7 MS. WERBEL: It was marked

8 Defendant's Exhibit D.

9 MR. LEWIS: Okay.

10 A. It's the same as the last picture, yes.

11 Q. Same apartment?

12 A. Yes.

13 Q. And could you tell if there is something
14 in front of the door matting or tile or
15 something like that?

16 A. From this picture, no.

17 Q. And in your inspections prior to that
18 date, did you ever see any of these rubber
19 orange tiles lifted up off the ground?

20 A. No, I never seen nothing.

21 Q. A corner, an edge, no?

22 A. No.

23 Q. Do you remember Basic or Irgang ever
24 receiving a complaint about the rubber tile
25 on any of the steps --

47

1 E. Morales

2 A. I don't recall.

3 Q. -- being lifted off the ground
4 partially?

5 A. I don't recall, no.

6 Q. Do you remember hearing of any accident
7 occurring of tenants walking up or down those
8 stairs prior to this date we are talking
9 about?

10 A. I don't recall.

11 Q. Is there anybody in particular that an
12 accident would be reported to?

13 A. Is there a what? I'm sorry.

14 Q. Would any possible accident involving
15 the steps be reported to management or to
16 Irgang?

17 A. I don't recall, no.

18 Q. You don't know who it would be reported
19 to?

20 A. If there was something?

21 MS. WERBEL: He is asking if someone
22 had an accident, who would they report
23 it to.

24 A. To the caseworker, yes.

25 Q. And you have no recollection of a

48

1 E. Morales

2 caseworker advising you of an accident going
3 up or down those steps?

4 A. No, I don't.

5 Q. I think you said that if you're a tenant
6 there on the second or third floor, you have
7 to go to the landing which had these orange
8 tiles, correct?

9 A. At the end of each steps there is a
10 landing, yes.

11 Q. And these were where the orange tiles
12 were?

13 A. Yes.

14 Q. And then you said to go to the
15 apartment, you walked down the hallway,
16 correct?

17 A. You would step on to the hallway.

18 Q. And how much of a distance are we
19 talking about from the landing to the
20 hallway?

21 A. I don't know.

22 Q. More than three feet, less?

23 A. I don't know. You step from one step,
24 you step into the hallway.

25 Q. And how far are from you to the closest

49

1 E. Morales

2 apartment once you to that?

3 A. I'm not -- I can't recall.

4 Q. Ten feet?

5 A. I can't recall.

6 Q. Five feet?

7 A. I can't recall.

8 Q. Three feet? More than three feet?

9 A. I can't recall.

10 Q. So you have no recollection even though
11 you inspected that building periodically for
12 the year before, correct?

13 MR. SHIN: Note my objection.

14 A. I don't recall.

15 Q. Well, what was the reason for your
16 inspections during this prior year? Were you
17 checking for defects in the hallways or
18 stairway?

19 A. Yes, we do inspections, visual
20 inspections to make sure the buildings and
21 the apartments are safe, yes.

22 Q. So during these inspections you check in
23 the apartments and the hallways and
24 stairways, correct?

25 A. Yes.

50

1 E. Morales

2 Q. Were you the only one that did that or
3 other people did that?

4 A. Case managers do it as well, yes.

5 Q. And these aren't case managers that work
6 for your company?

7 A. Yes, they are.

8 Q. They aren't social workers?

9 A. They're case managers that work for
10 Acacia.

11 Q. And they're assigned to --

12 A. Every case worker is assigned a certain
13 amount of clients.

14 Q. How many, generally?

15 A. I don't know. That's not my department.

16 Q. How many caseworkers were there for the
17 building back then?

18 A. I don't know.

19 Q. How many apartments were there in the
20 building, four?

21 A. In that building?

22 Q. Yes.

23 A. Seven.

24 Q. How many?

25 A. Four.

51

1 E. Morales

2 Q. Four, so there would be a minimum of at
3 least four caseworkers assigned to that
4 building?

5 A. I don't know.

6 Q. What would the caseworkers do?

7 A. If what? I'm not understanding.

8 Q. What did they do? What was their job
9 responsibilities?

10 A. Responsibilities is to guide clients to
11 get on their feet and get them into permanent
12 housing.

13 Q. Okay, I thought you said the caseworkers
14 were there to report problems with the inside
15 of the apartment and the hallways and
16 stairways?

17 MS. WERBEL: Objection to your
18 characterization as to what he said.

19 MR. LEWIS: Okay, let me withdraw
20 it.

21 Q. Were they assigned to look for defects
22 in the apartment and the hallways and
23 stairways? Was that part of their job?

24 A. Yes.

25 Q. If they saw problems, they would report

52

1 E. Morales

2 it to Basic, correct?

3 A. To the maintenance department, yes.

4 Q. At Basic?

5 A. Yes.

6 Q. And the maintenance department was
7 located where again, sir? I think you said
8 it, but I will ask again.

9 A. The what?

10 Q. Where was the maintenance department
11 located?

12 A. 819 East 178th Street.

13 Q. And did they keep records of what the
14 caseworkers told them about the conditions of
15 the interior or exterior of the apartment?

16 A. We get an e-mail, yes.

17 Q. And those e-mails are no longer in
18 existence, correct?

19 A. No.

20 Q. Do you know if the tenants were given
21 social workers?

22 A. I know they got case managers. That I
23 do know.

24 Q. And the money for these case managers
25 was paid by Basic, correct?

53

1 E. Morales

2 A. I don't know anything about money.

3 Q. Well, the caseworkers, were they full
4 time?

5 A. Yes.

6 Q. And they would try and get the family
7 back on their feet, to gain employment,
8 correct?

9 A. Yes.

10 Q. And they would also report any defective
11 conditions in the apartment or on the
12 stairways or hallways, correct?

13 A. Yes, they did inspections.

14 Q. Do you know how often they inspected the
15 premises?

16 A. Excuse me?

17 Q. How often they inspected the premises?

18 A. It varies.

19 Q. Not as often as you did?

20 A. It varies. It could be more. It could
21 be less. It depends on the clients and that
22 is above my --

23 Q. Do you ever remember any of the
24 caseworkers making complaints about the
25 interior of the apartment in the year before?

54

1 E. Morales

2 MS. WERBEL: In this building?

3 MR. LEWIS: Yes, of course.

4 A. No, I don't recall.

5 Q. And no complaints about the stairways or
6 hallways in this one year period in this
7 building?

8 A. I don't recall, no.

9 Q. And you never heard of anyone tripping
10 over a lifted orange floor tile?

11 A. I don't recall, no.

12 Q. You did or you don't recall if you did?

13 A. I don't recall.

14 Q. So you're saying you might have heard
15 it, but you don't remember?

16 A. I don't recall nobody calling me, no.

17 Q. On the floors, were there any closed
18 circuit cameras?

19 A. Are there any cameras?

20 Q. Closed circuit cameras?

21 A. In the facility? No.

22 MR. LEWIS: That will do it for me.

23 EXAMINATION BY

24 MR. SHIN:

25 Q. Good morning, Mr. Morales?

55

1 E. Morales

2 A. Good morning, young man.

3 Q. My name is John Shin. I represent the
4 Defendants, Irgang, the group. I will have
5 some follow-up questions for you. Before
6 this deposition started, did you look at any
7 papers, documents, photographs, anything,
8 whatsoever, to help prepare you for the
9 questions that you received today?

10 A. I saw the photos.

11 Q. Other than photos, did you look at
12 anything else?

13 A. No.

14 Q. I take it you're a W2 employee?

15 A. Yes.

16 Q. And back in October of 2011 you were a
17 W2 employee?

18 A. Yes.

19 Q. So at the end of the year you got a W2
20 form showing how much you were paid?

21 A. Yes.

22 Q. Who paid you in 2011?

23 A. Acacia.

24 Q. Not Basics?

25 A. To me it's the same thing, so I can't

56

1 E. Morales

2 recall whether it was.

3 Q. I don't want you to guess. So back in
4 2011, does your W2 say you were paid by
5 Acacia or Basics or Acacia/Basics?

6 A. Basics Acacia.

7 Q. Both?

8 A. It's all one because at one time we was
9 Basics and then we transitioned into Acacia.

10 Q. So at 2011 your W2 form had both Basics
11 and Acacia printed on it?

12 A. It was either one or the other.

13 Q. And do you know which one it was back
14 then?

15 A. I can't recall that to be honest with
16 you.

17 Q. Do you know what it was now in let's say
18 your pay stub from 2015, who paid you?

19 A. It says Acacia.

20 Q. That you're sure of?

21 A. Yes.

22 Q. Is there an elevator in this building at
23 125th Street?

24 A. No.

25 Q. You mentioned randomly picked buildings

57

1 E. Morales

2 for inspection. Would you still inspect
3 every building at least once a week that you
4 were responsible for?

5 MS. WERBEL: What do you mean by
6 "would you still"? You're talking about
7 today?

8 MR. SHIN: Back in October 2011.

9 A. Would I still what?

10 Q. At some point by the end of the week
11 would you visit every building that you were
12 responsible for at least once?

13 A. Yes.

14 Q. And Basics Acacia is only in the
15 business of operating homeless shelters?

16 A. What I'm responsible for, yes.

17 Q. Do Basics Acacia collect rent from the
18 people in the building that are not part of
19 the shelter program?

20 A. I don't know that.

21 Q. Do Basics Acacia have an agreement to
22 receive funding from the City of New York?

23 A. I don't know.

24 Q. How about the State of New York, does
25 Basics Acacia receive funding from the State?

58

1 E. Morales

2 A. I don't know.

3 MS. WERBEL: He is in the
4 maintenance department.

5 A. Yeah, all I know is they pay me.

6 Q. Understood. I just want to be clear on
7 the record. Do you know who Raul Russi is?

8 A. It's the CEO of the company.

9 Q. Have you ever seen anything signed by
10 him?

11 A. E-mails maybe. That's it.

12 Q. Would you recognize what his signature
13 looks like?

14 A. No.

15 Q. Up until you moved to 555 Hutchinson
16 River Parkway, you still handled the building
17 known as 779 East 125th?

18 A. Yes.

19 Q. And once you went to the Hutchinson
20 River Parkway location you were no longer
21 part of that building?

22 A. No.

23 Q. Do you supervise a custodial staff?

24 MS. WERBEL: Now or then?

25 MR. SHIN: Back in October 2011,

59

1 E. Morales

2 thank you.

3 A. No.

4 Q. Is there a custodial staff for the 125th
5 Street building?

6 A. No.

7 Q. Is there a staff either employed by
8 Basics or Acacia that routinely sweeps the
9 public areas?

10 A. From my understanding, yes, now there
11 is.

12 Q. What about back in October 2011?

13 A. No, they had someone else doing it.

14 Q. Who was doing it then?

15 A. Irgang has guys doing it.

16 Q. Sweeping?

17 A. Yeah, and mopping.

18 Q. What about snow and ice on the public
19 sidewalk back in October 2011, who was doing
20 that?

21 A. Irgang's guys.

22 Q. And now it's Acacia?

23 A. Yes.

24 Q. So if I understand it, the client or
25 tenant complains to the caseworker about

60

1 E. Morales

2 something in the building, the caseworker
3 then calls you?

4 A. Yes.

5 Q. And then you determine who to call next?

6 A. Yes.

7 Q. And if you determine it's structural you
8 will call Irgang?

9 A. Yes.

10 Q. What is an example of something
11 structural? You mentioned ceiling collapses?

12 A. Yes, ceiling, major plumbing issue, AC
13 units, because most his buildings are like,
14 the AC units that they're responsible for,
15 that is in the ceiling and stuff. If there
16 is anything in the hallways that's
17 structural, he is responsible for that as
18 well.

19 Q. What is the structural condition of the
20 hallway?

21 A. A ceiling, something broken.

22 Q. What about the ceramic tiles you were
23 talking about?

24 A. Yes.

25 Q. That should be handled by Irgang as

61

1 E. Morales

2 well?

3 A. Yes.

4 Q. So if there was a cracked or missing
5 tile, Irgang would deal with that?

6 A. Yes.

7 Q. Does Irgang have an office at the 125th
8 Street location?

9 A. No.

10 Q. Does Irgang have any employees at the
11 125th Street location?

12 A. No.

13 Q. Have you ever seen Mark Irgang at the
14 125th Street location?

15 A. Yes.

16 Q. For what?

17 A. Just randomly, probably doing
18 inspections and following up, I guess. I'm
19 not sure.

20 Q. You just said, "guess." Are you
21 assuming that's what he was there for?

22 A. Yeah. I wouldn't know. He will just be
23 there and I will just see him, yes.

24 Q. So there was no planned meetings for you
25 and Mark Irgang?

62

1 E. Morales

2 A. No.

3 Q. If you referred something to Mark
4 Irgang, would you write it down?

5 A. No.

6 Q. Would you put it in an e-mail?

7 A. No.

8 Q. Would you just call Mark Irgang?

9 A. Yes.

10 Q. If the caseworker notified you, it's
11 only by e-mail?

12 A. Yes.

13 Q. And the e-mail retention policy back in
14 2011 was what, e-mails be kept one year, more
15 than one year?

16 A. Well, my e-mails, I delete my e-mails,
17 yes.

18 Q. Do you know if the company keeps the
19 e-mails?

20 A. I don't know about that.

21 Q. Does anyone print these e-mails to
22 record them or save them in a tenant file?

23 A. I don't know.

24 Q. The 818 East 178th Street location is
25 the maintenance office?

63

1 E. Morales

2 A. 819 East 178th Street, yes.

3 Q. And is that an Acacia or Basic's
4 office --

5 MS. WERBEL: At what point in time?

6 Q. -- or something else, back in October
7 2011?

8 A. Basics.

9 Q. And now it's Acacia or something else?

10 A. Yeah, it's Acacia.

11 Q. Do you know if the caseworkers have any
12 contact with Irgang, any direct contact with
13 Irgang?

14 A. I wouldn't know, no.

15 Q. Does Basics or Acacia have records as to
16 who was the assigned caseworker at any given
17 time?

18 A. They should have, yes.

19 Q. So is there a record that Basics Acacia
20 has to identify the caseworker for a tenant
21 in a particular apartment in October 2011?

22 A. They should have.

23 MR. SHIN: Okay, I will leave a
24 blank in the transcript and I'll follow
25 up in writing for the identity of Ms.

64

1 E. Morales

2 Diaz-Pascall's caseworker back at the
3 time of the accident.

4 A. _____.

5 Q. And the caseworker is an employee of
6 Basics or Acacia?

7 A. Yes.

8 Q. Were you asked to look for any
9 complaints that were referred to Mark Irgang?

10 A. No.

11 Q. Do you know what records the caseworkers
12 keep for the clients?

13 A. No.

14 Q. Are the caseworkers independent
15 contractors or full-time employees with
16 Basics or Acacia?

17 A. They're full-time employees, yes.

18 Q. Do you know if they get a W2 form also?

19 A. Yes.

20 Q. They do?

21 A. Yes.

22 Q. Have you heard of something called a
23 tenant file?

24 A. Tenant file, no.

25 Q. Do you know if Basics or Acacia

65

1 E. Morales

2 maintains a folder for each apartment?

3 A. A chart, they have charts.

4 MS. WERBEL: You're talking about
5 the apartment or the tenant in the
6 apartment?

7 MR. SHIN: Right now it's just the
8 apartment.

9 A. No.

10 Q. Do they have a separate file for the
11 tenants in the apartment?

12 A. They're just clients. They're just
13 responsible for the clients.

14 Q. And the client is the occupant of the
15 apartment?

16 A. Yes.

17 Q. Is there a separate agreement between
18 the client and Basics Acacia?

19 A. That I'm not sure.

20 Q. You mentioned your inspections. Do you
21 bring a checklist with you?

22 A. We bring an inspection form, yes.

23 Q. When do you fill out the form?

24 A. At the conclusion of every inspection.

25 Q. Do you keep it?

66

1 E. Morales

2 A. Not for long.

3 Q. How long do you keep it?

4 A. We probably keep it for like a couple
5 years, that's it.

6 Q. So the forms back in 2011 don't exist?

7 A. No.

8 Q. Did any of the clients have direct
9 contact with you back in October 2011?

10 A. Yes.

11 Q. And if they see you in the building and
12 they have something that needs to be
13 addressed will they talk to you directly?

14 A. They will call me, yes.

15 Q. How do you handle that? Do you tell
16 them "No, you got to go back to your
17 caseworker?"

18 A. No, we address the issue, as it's
19 called. We address it as the company, yes.

20 Q. Do you write it down as well?

21 A. Yes.

22 Q. Do you keep that writing for any period
23 of time?

24 A. Maybe a year, two years. It's just a
25 paper trail that we keep. We don't keep it

67

1 E. Morales

2 for long because we are so big right now it's
3 too much paper.

4 Q. So any papers in 2011, do they exist?

5 A. No.

6 Q. Does Acacia and Basics have clients
7 outside of New York State?

8 A. Not that I know of, no.

9 MR. SHIN: All right, I don't have
10 anything further. I just reserve my
11 rights to a deposition of the caseworker
12 assigned to the Plaintiff at the time of
13 the accident.

14 MS. WERBEL: I think you're going to
15 need an authorization from Plaintiff to
16 get the case file because there could be
17 medical records in there.

18 MR. SHIN: Understood.

19 MS. WERBEL: So we can't just hand
20 it over.

21 MR. SHIN: Okay, but at least the
22 identity though and whether he or she is
23 still employed by Basics Acacia.

24 MS. WERBEL: That we can find out.

25 MR. SHIN: Thank you. I will put it

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1 E. Morales

2 all in writing.

3 EXAMINATION BY

4 MR. LEWIS:

5 Q. Let me do a brief follow up. You said
6 you looked at some photos before you came in
7 here today?

8 A. Excuse me?

9 Q. You said you looked at some photos
10 before you came here today, correct?

11 A. Yes.

12 Q. Are the photos contained in these
13 exhibits or was there other photos?

14 A. No, the same photos.

15 Q. Problems with the steps between the
16 first and second floor and the second and
17 third floor, are those considered structural
18 problems?

19 MS. WERBEL: Can I hear that
20 question again?

21 (Whereupon, the record was read back
22 by the court reporter.)

23 MR. SHIN: Note my objection to
24 form.

25 MS. WERBEL: Note mine, too. If you

69

1 E. Morales

2 can answer that.

3 A. I don't think so, no.

4 Q. If any one of these rubber orange tiles
5 is lifting up on the landing, is that
6 considered a structural problem?

7 A. No.

8 Q. Did a tenant, while you were inspecting,
9 ever tell you about a problem with a step or
10 stairway?

11 A. No.

12 Q. Did they ever tell you that the orange
13 tile on the landing had lifted up?

14 A. No.

15 MR. LEWIS: Okay, that's it.

16 MR. SHIN: Thank you, sir.

17 (Time noted: 11:50 a.m.)

18

19

20 _____
EDWIN MORALES

21

22 Subscribed and sworn to before me
23 this _____ day of _____, 2017.

24

25 _____
NOTARY PUBLIC

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1

2

I N D E X

3

4 EXAMINATION BY

PAGE

5 MR. LEWIS

5, 68

6 MR. SHIN

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7

8

9

E X H I B I T S

10

11 PLAINTIFF(S)' EXHIBITS:

12

13 EXHIBIT EXHIBIT

PAGE

14 NUMBER DESCRIPTION

15 1 - 6 Photos

35

16

17

18

REQUESTS

19 DESCRIPTION

PAGE

20 Request identity of

21 Ms. Diaz-Pascall's caseworker

22 at the time of accident

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23

24

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2

C E R T I F I C A T E

3

4 STATE OF NEW YORK)

: SS.:

5 COUNTY OF QUEENS)

6

7

8 I, RENEE M. DECARLOS, a Notary Public
9 for and within the State of New York, do
10 hereby certify:

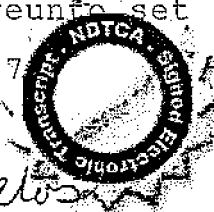

11 That the witness whose examination is
12 hereinbefore set forth was duly sworn and
13 that such examination is a true record of the
14 testimony given by that witness.

15 I further certify that I am not related
16 to any of the parties to this action by blood
17 or by marriage and that I am in no way
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this 13th day of January 2017

21

22



23

RENEE M. DECARLOS

24

25

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